

1  
2  
3  
4  
5  
6  
7  
8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE WESTERN DISTRICT OF WASHINGTON**  
10 **AT SEATTLE**

11 J.G, by and through his parents and  
12 guardians, C.G and L.R,

13 Plaintiff,

Case No. 2:20-cv-01510-RSL

14 vs.

**STIPULATED PROTECTIVE ORDER**

15 THE BOEING COMPANY MASTER  
16 WELFARE PLAN; THE BOEING  
17 COMPANY EMPLOYEE BENEFIT  
18 PLANS COMMITTEE, AND BLUE  
19 CROSS BLUE SHIELD OF ILLINOIS,  
20 a division of HEALTH CARE  
21 SERVICE CORPORATION OF  
22 ILLINOIS STATE PAC NFP,  
23 Defendants.

24 **1. PURPOSES AND LIMITATIONS**

25 Discovery in this action is likely to involve production of confidential, proprietary, or  
26 private information for which special protection may be warranted. Accordingly, the parties  
27 hereby stipulate to and petition the court to enter the following Stipulated Protective Order.  
The parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer  
blanket protection on all disclosures or responses to discovery; the protection it affords from  
public disclosure and use extends only to the limited information or items that are entitled to

1 confidential treatment under the applicable legal principles, and it does not presumptively  
2 entitle parties to file confidential information under seal.

### 3 2. “CONFIDENTIAL” DESIGNATION

4 “Confidential” material shall include the following documents and tangible things  
5 produced or otherwise exchanged by parties and nonparties in the above-captioned litigation:

- 6 • Protected Health Information (“PHI”);
- 7 • Documents containing personal, financial, medical, proprietary or other  
8 information subject to a right of privacy;
- 9 • Any information that the producing party is obligated by contract or state or  
10 federal law to keep confidential;
- 11 • Any information the producing party’s business competitors could use to obtain  
12 a business, strategic, or legal advantage over the producing party; and
- 13 • Any other documents or information that should otherwise be subject to  
14 confidential treatment pursuant to the Federal Rules of Civil Procedure.

### 15 3. SCOPE

16 The protections conferred by this agreement cover not only confidential material (as  
17 defined above), but also (1) any information copied or extracted from confidential material; (2)  
18 all copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony,  
19 conversations, or presentations by parties or their counsel that might reveal confidential  
20 material. However, the protections conferred by this agreement do not cover information that is  
21 in the public domain or becomes part of the public domain through trial or otherwise.

### 22 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

23 4.1 Basic Principles. A receiving party may use confidential material that is  
24 disclosed or produced by another party or by a non-party in connection with this case only for  
25 prosecuting, defending, or attempting to settle this litigation. Confidential material may be  
26 disclosed only to the categories of persons and under the conditions described in this  
27 agreement. Confidential material must be stored and maintained by a receiving party at a

1 location and in a secure manner that ensures that access is limited to the persons authorized  
2 under this agreement.

3 4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise  
4 ordered by the court or permitted in writing by the designating party, a receiving party may  
5 disclose any confidential material only to:

6 (a) the receiving party’s counsel of record in this action, as well as  
7 employees of counsel to whom it is reasonably necessary to disclose the information for this  
8 litigation;

9 (b) the officers, directors, and employees (including in house counsel) of the  
10 receiving party to whom disclosure is reasonably necessary for this litigation, unless the parties  
11 agree that a particular document or material produced is for Confidential–Attorneys’ Eyes Only  
12 and is so designated;

13 (c) experts and consultants to whom disclosure is reasonably necessary for  
14 this litigation and who have signed the “Acknowledgment and Agreement to Be Bound”  
15 (*Exhibit A*);

16 (d) the court, court personnel, and court reporters and their staff;

17 (e) copy or imaging services retained by counsel to assist in the duplication  
18 of confidential material, provided that counsel for the party retaining the copy or imaging  
19 service instructs the service not to disclose any confidential material to third parties and to  
20 immediately return all originals and copies of any confidential material;

21 (f) during their depositions, witnesses in the action to whom disclosure is  
22 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be  
23 Bound” (*Exhibit A*), unless otherwise agreed by the designating party or ordered by the court.  
24 Pages of transcribed deposition testimony or exhibits to depositions that reveal confidential  
25 material must be separately bound by the court reporter and may not be disclosed to anyone  
26 except as permitted under this agreement;  
27

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information.

4.4 Filing Confidential Material. Before filing confidential material or discussing or referencing such material in court filings, the filing party shall confer with the designating party to determine whether the designating party will remove the confidential designation, whether the document can be redacted, or whether a motion to seal or stipulation and proposed order is warranted. Local Rule 5(g) sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

## 5. DESIGNATING PROTECTED MATERIAL

5.1 Exercise of Restraint and Care in Designating Material for Protection. Each party or non-party that designates information or items for protection under this agreement must take care to limit any such designation to specific material that qualifies under the appropriate standards. The designating party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify, so that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this agreement.

Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (*e.g.*, to unnecessarily encumber or delay the case development process or to impose unnecessary expenses and burdens on other parties) expose the designating party to sanctions.

If it comes to a designating party's attention that information or items that it designated for protection do not qualify for protection, the designating party must promptly notify all other parties that it is withdrawing the mistaken designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this agreement (see, *e.g.*, second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, disclosure or discovery material that qualifies for protection under this agreement must be clearly so designated before or when the material is disclosed or produced.

1 (a) Information in documentary form: (e.g., paper or electronic documents  
2 and deposition exhibits, but excluding transcripts of depositions or other pretrial or trial  
3 proceedings), the designating party must affix the word “CONFIDENTIAL” to each page that  
4 contains confidential material. If only a portion or portions of the material on a page qualifies  
5 for protection, the producing party also must clearly identify the protected portion(s) (e.g., by  
6 making appropriate markings in the margins).

7 (b) Testimony given in deposition or in other pretrial proceedings: the  
8 parties and any participating non-parties must identify on the record, during the deposition or  
9 other pretrial proceeding, all protected testimony, without prejudice to their right to so  
10 designate other testimony after reviewing the transcript. Any party or non-party may, within  
11 fifteen days after receiving the transcript of the deposition or other pretrial proceeding,  
12 designate portions of the transcript, or exhibits thereto, as confidential. If a party or non-party  
13 desires to protect confidential information at trial, the issue should be addressed during the pre-  
14 trial conference.

15 (c) Other tangible items: the producing party must affix in a prominent  
16 place on the exterior of the container or containers in which the information or item is stored  
17 the word “CONFIDENTIAL.” If only a portion or portions of the information or item warrant  
18 protection, the producing party, to the extent practicable, shall identify the protected portion(s).

19 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to  
20 designate qualified information or items does not, standing alone, waive the designating party’s  
21 right to secure protection under this agreement for such material. Within fifteen days of the  
22 timely correction of a designation, the receiving party must provide written confirmation that it  
23 has made reasonable efforts to ensure that the material has been treated in accordance with the  
24 provisions of this agreement.

## 25 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

26 6.1 Timing of Challenges. Any party or non-party may challenge a designation of  
27 confidentiality at any time. Unless a prompt challenge to a designating party’s confidentiality

1 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic  
 2 burdens, or a significant disruption or delay of the litigation, a party does not waive its right to  
 3 challenge a confidentiality designation by electing not to mount a challenge promptly after the  
 4 original designation is disclosed.

5 6.2 Meet and Confer. The parties must make every attempt to resolve any dispute  
 6 regarding confidential designations without court involvement. Any motion regarding  
 7 confidential designations or for a protective order must include a certification, in the motion or  
 8 in a declaration or affidavit, that the movant has engaged in a good faith meet and confer  
 9 conference with other affected parties in an effort to resolve the dispute without court action.  
 10 The certification must list the date, manner, and participants to the conference. A good faith  
 11 effort to confer requires a face-to-face meeting or a telephone conference.

12 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court  
 13 intervention, either party may file and serve a motion to retain or remove the confidentiality  
 14 designation in compliance with Local Civil Rule 7 (and in compliance with Local Civil Rule  
 15 5(g), if applicable). The burden of persuasion in any such motion shall be on the designating  
 16 party. Frivolous challenges, and those made for an improper purpose (*e.g.*, to harass or impose  
 17 unnecessary expenses and burdens on other parties) may expose the challenging party to  
 18 sanctions. All parties shall continue to maintain the material in question as confidential until  
 19 the court rules on the challenge.

20 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER  
 21 LITIGATION

22 If a party is served with a subpoena or a court order issued in other litigation that  
 23 compels disclosure of any information or items designated in this action as  
 24 “CONFIDENTIAL,” that party must:

25 (a) promptly notify the designating party in writing and include a copy of  
 26 the subpoena or court order;

1 (b) promptly notify in writing the party who caused the subpoena or order to  
 2 issue in the other litigation that some or all of the material covered by the subpoena or order is  
 3 subject to this agreement. Such notification shall include a copy of this agreement; and

4 (c) cooperate with respect to all reasonable procedures sought to be pursued  
 5 by the designating party whose confidential material may be affected.

6 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

7 If a receiving party learns that, by inadvertence or otherwise, it has disclosed  
 8 confidential material to any person or in any circumstance not authorized under this agreement,  
 9 the receiving party must immediately (a) notify in writing the designating party of the  
 10 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the  
 11 protected material, (c) inform the person or persons to whom unauthorized disclosures were  
 12 made of all the terms of this agreement, and (d) request that such person or persons execute the  
 13 “Acknowledgment and Agreement to Be Bound” that is attached hereto as *Exhibit A*.

14 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED  
 15 MATERIAL

16 When a producing party gives notice to receiving parties that certain inadvertently  
 17 produced material is subject to a claim of privilege or other protection, the obligations of the  
 18 receiving parties are those set forth in Federal Rule of Evidence 502(b). This provision is not  
 19 intended to modify whatever procedure may be established in an e-discovery order or  
 20 agreement that provides for production without prior privilege review. The parties agree to the  
 21 entry of a non-waiver order under Federal Rule of Evidence 502(d) as set forth herein.

22 10. NON TERMINATION AND RETURN OF DOCUMENTS

23 Within 60 days after the termination of this action, including all appeals, each receiving  
 24 party must return all confidential material to the producing party, including all copies, extracts  
 25 and summaries thereof. Alternatively, the parties may agree upon appropriate methods of  
 26 destruction.  
 27

1 Notwithstanding this provision, counsel are entitled to retain one archival copy of all  
2 documents filed with the court, trial, deposition, and hearing transcripts, correspondence,  
3 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert  
4 work product, even if such materials contain confidential material.

5 The confidentiality obligations imposed by this agreement shall remain in effect until a  
6 designating party agrees otherwise in writing or a court orders otherwise.

7 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD. DATED this 2 day of  
8 March, 2021.

9 KILPATRICK TOWNSEND & STOCKTON LLP

10 By /s/ Gwendolyn C. Payton  
11 Gwendolyn C. Payton, WSBA No. 26752  
12 gpayton@kilpatricktownsend.com  
13 1420 Fifth Ave., Suite 3700  
14 Seattle, WA 98101  
15 Telephone: (206) 626-7714  
16 Facsimile: (206) 623-6793

17 *Counsel for Defendant Blue Cross Blue Shield Of*  
18 *Illinois*

19 PERKINS COIE LLP

20 By /s/ Jason R. Elliott  
21 Jason R. Elliott (*pro hac vice*)  
22 Texas Bar No. 24050558  
23 Perkins Coie LLP  
24 500 N. Akard Street, Suite 3300  
25 Dallas, TX 75201-3347  
26 Telephone: 214.965.7700  
27 Facsimile: 214.965.7799

Ben Stafford, WSBA No. 39849  
bstafford@perkinscoie.com  
925 4th Ave Ste 2900  
Seattle, WA 98104-1158  
Telephone: (206) 359-6217  
Facsimile: (206) 359-7217

*Counsel for Defendants The Boeing Company*  
*Master Welfare Plan and The Boeing Company*  
*Employee Benefit Plans Committee*



1 PNW STRATEGIC LEGAL SOLUTIONS, PLLC

2 By /s/ Marlena Grundy  
3 Marlena Grundy, WSBA No. 47026  
4 marlena@pnwsls.com  
5 1408 140th PL. NE., Suite 170  
6 Bellevue, WA 98007  
7 Telephone: (206) 370-8070

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
*Counsel for Plaintiff J.G., by and through his  
guardians C.G. and L.R.*

**ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED

IT IS FURTHER ORDERED that pursuant to Fed. R. Ev. 502(d), the production of any documents in this proceeding shall not, for the purposes of this proceeding or any other proceeding in any other court, constitute a waiver by the producing party of any privilege applicable to those documents, including the attorney-client privilege, attorney work-product protection, or any other privilege or protection recognized by law.

Dated this 3rd day of March, 2021.



Robert S. Lasnik

United States District Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, \_\_\_\_\_ [print or type full name], of  
\_\_\_\_\_ [print or type full address], declare under penalty  
of perjury that I have read in its entirety and understand the Stipulated Protective Order that  
was issued by the United States District Court for the Western District of Washington, Judge  
Robert S. Lasnik on [date] in the case of *J.G. et al. v. The Boeing Company Master Welfare  
Plan et al.*, Case No. 2:20-cv-01510-RSL. I agree to comply with and to be bound by all the  
terms of this Stipulated Protective Order and I understand and acknowledge that failure to so  
comply could expose me to sanctions and punishment in the nature of contempt. I solemnly  
promise that I will not disclose in any manner any information or item that is subject to this  
Stipulated Protective Order to any person or entity except in strict compliance with the  
provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the  
Western District of Washington for the purpose of enforcing the terms of this Stipulated  
Protective Order, even if such enforcement proceedings occur after termination of this action.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_